

08/815 773



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APPLICATION NUMBER 08/815 773	FILING DATE 03/15/97	PRINTED NAME OF APPLICANT BALIMGAR, LOR	EXAMINER DOCKET NO. 95013
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GARY E PARKER  
ZYMOGENETICS INC  
1201 EASTLAKE AVENUE EAST  
SEATTLE WA 98102

EXAMINER LAZAR-WESLEY, E
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ART UNIT 1646	PAPER NUMBER 7
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DATE MAILED: 02/24/98

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

## OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on Nov. 13, 1997

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 1-36 is/are pending in the application.  
Of the above, claim(s) 1-32 and 39 is/are withdrawn from consideration.  
☐ Claim(s) \_\_\_\_\_ is/are allowed.  
☒ Claim(s) 33-39 is/are rejected.  
☐ Claim(s) \_\_\_\_\_ is/are objected to.  
☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.  
☐ The specification is objected to by the Examiner.  
☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.  
☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☒ Notice of Reference Cited, PTO-892  
☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5  
☐ Interview Summary, PTO-413  
☒ Notice of Draftsperson's Patent Drawing Review, PTO-948  
☐ Notice of Informal Patent Application, PTO-152

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-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

Art Unit: 1646

### **DETAILED ACTION**

1. Effective February 7, 1998, the Group and Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group 1640, Art Unit 1646.
2. Applicant's election without traverse of Group II in Paper No. 6 filed November 13, 1997, is acknowledged. Claims 33-38 are under consideration.

### ***Claim Objections***

3. Claims 33 and 35 are objected to because of the following informalities:  
claim 33, b) should recite "an allelic variant of (a)", instead of a plural form.  
claim 35 should recite "comprises a transmembrane and an intracellular domain".  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 1646

5. Claims 33-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Collins et al., US Patent 5,710,023 (A) .

Collins et al. teach an Interleukine 13 cytokine receptor chain . They teach polynucleotides encoding a peptide of SEQ ID No.4, whose sequence is identical to the peptide having SEQ ID No2 from the instant invention from position 1-380 (see sequence comparison attached). They teach that the mature human IL-13bc has the sequence of amino acids 26-380 of SEQ ID No.4, and they teach that the mature human receptor has an extracellular domain, a transmembrane domain, and an intracellular domain (col.4, lines 15-22). They teach, col. 4, lines 32-36, that soluble forms of IL-13bc can be produced (amino acids 1-341 or 26-341 of SEQ ID No.4). They teach suitable host cells for the expression of the IL-13bc protein (col.5, lines 46-57) . They teach methods which use the IL-13bc proteins to screen for agents which are capable of binding to IL-13bc or which interfere with the binding of IL-13 to IL-13bc. They teach that the IL-13bc may be immobilized on a carrier (col.7, lines 14-28). They teach to determine whether a IL-13 bc protein has a biological activity using reporter genes (col.15, lines 1-3).The teachings of Collins meet the limitations of the claims.

6. No claim is allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliane Lazar-Wesley, PhD, whose telephone number is (703) 305 4059. The examiner can normally be reached on Monday-Friday from 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Walsh, can be reached on (703) 308-2957.

Official papers filed by fax should be directed to (703) 308 4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Art Unit: 1646


Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [stephen.walsh@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

ELW  
February 16, 1998

ELW



LORRAINE M. SPECTOR  
PATENT EXAMINER  
GROUP 1800